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17. (amended) A compound according to claim 15 wherein each of R₁ and R₅, independently, is hydrogen; halogen; or lower alkyl;
each of R₂ and R₄ is hydrogen;
R₃ is R₆R₇N-C(O)-lower alkyl; aryl substituted by carboxyl or R₆R₇N-C(O); or aryl-lower alkyl substituted by N-lower alkylamino or N,N-di-lower alkylamino;
each of R₆ and R₇, independently, is hydrogen; lower alkyl; hydroxy-lower alkyl; alkoxy-lower alkyl; hydroxyalkoxy-lower alkyl; amino-lower alkyl; N-lower alkylamino-lower alkyl; N,N-di-lower alkylamino-lower alkyl; N-(hydroxy-lower alkyl)amino-lower alkyl; or N,N-di(hydroxy-lower alkyl)amino-lower alkyl; and
each of R₈ and R₉, independently, is hydrogen or lower alkyl;
or a pharmaceutically acceptable salt thereof.

REMARKS

The instant application was allowed on May 29, 2002, and the Issue Fee will be paid on or shortly before August 29, 2002.

As indicated in the "voice mail" message that was left by the undersigned on August 5, 2002, it was recently noted that one of the significances of the "R₃" substituent in the broadest, preferred and more preferred compound, per se, scopes, viz., Claims 15-17, respectively, is "aryl-lower alkyl substituted by pyrrolidino". However, in view of the Examiner's statement in the last complete paragraph on Page 2 of the Official Action dated February 25, 2002 that "substituents R₃, R₆ and R₇ were examined with regard to non-heterocyclic groups, exclusively", it appears that the above compounds are outside the scope of the examined subject matter. Accordingly, Claims 15-17 have been amended to exclude compounds where "R₃" is aryl-lower alkyl substituted by pyrrolidino.

In addition, it was noted that the Markush group in Claim 8 comprises compounds which are outside the scope of the examined subject matter. Accordingly, Claim 8 has been amended to exclude the non-examined compounds.

It should be noted that the amending of the definition of the "R₃" substituent in Claims 15-17 to exclude non-examined subject matter and the excision of the non-examined compounds from Claim 8 has been effected without prejudice to Applicants' right to file one or more divisionals

thereon. In any event, attached is an Appendix which represents a marked-up version of the changes made to Claims 8 and 15-17.

Acknowledgement is hereby made of the "voice mail" message that was left by the Examiner on August 6, 2002 wherein she indicated that she had overlooked the fact that one of the significances of the "R₃" substituent in Claims 15-17 embraced non-examined subject matter and that certain of the specific compounds in Claim 8 were outside the scope of the examined subject matter. In addition, the Examiner indicated that she would favorably consider an Amendment Under 37 CFR §1.312 which excluded non-examined subject matter from the "allowed" scopes of Claims 8 and 15-17.

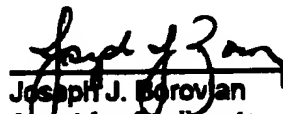
The entering of the above amendments is believed to be proper because they: 1) not only reduce the "allowed" scopes of Claims 8 and 15-17 but, more importantly, exclude non-examined subject matter; 2) do not raise any question of new matter; 3) do not require a new search; and 4) do not require substantial additional work on the part of the U.S. Patent and Trademark Office.

Accordingly in the best interests of proper and complete Patent and Trademark Office prosecution, as well as for the purpose of protecting the rights under any patent which may issue covering part or all of the disclosed subject matter, it is respectfully requested that this Amendment Under 37 CFR §1.312 be entered prior to the preparation of this application for issuance.

No additional fee is deemed to be necessitated by this Amendment Under 37 CFR §1.312.

Respectfully submitted,

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JJB/ld

Encl.: Appendix

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